

Atty. Dkt. No. 039153-0433 (C167596-CIP)

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Sander, et al.

Title: MINIMIZING TRANSISTOR  
SIZE IN INTEGRATED  
CIRCUITS

Appl. No.: 10/042,732

Filing Date: 4/25/2001

Examiner: Nguyen, T.

Art Unit: 2813

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**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**OFFICIAL**

Sir:

In response to the restriction requirement set forth in the Office Action mailed May 18 2004, Claims 19-38 are subject to a Restriction Requirement. The Examiner states:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 19-24, drawn to an integrated circuit, classified in class 257, subclass 382.
- II. Claims 24-38, drawn to method of manufacturing an integrated circuit, classified in class 438, subclass 618.

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The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the product can be formed materially different process, for example, forming conductive layer in the opening by sputtering deposition.

Applicants respectfully traverse the Restriction Requirement.

Applicants provisionally elect the claims to Group 1, Claims 1-19.

Applicants note that Claims 24-38 are not drawn to a method. Claims 24-38 are drawn to an integrated circuit which is manufactured by a method. This is a product by process claim. Product-by-process claims are not limited to a particular process. MPEP § 2113 states; "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its methods of production." Accordingly, the restriction of Claims 24-38 from 19-24 is improper, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,

Date 6-18-04

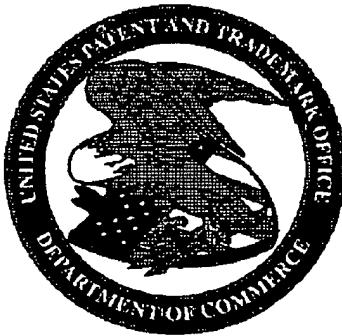
By Joseph N. Ziebert

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This is regarding Application Serial No. 10/042,732.

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